



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
diGirolamo et al.

Serial No.: 10/58958

Filed: January 28, 2002

For: **Wall Structure**

Attorney's Docket No: 4782-022

Patent Pending

Examiner: Yvonne M. Horton

Group Art Unit: 3635

Raleigh, North Carolina
July 25, 2003

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GROUP 3600

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION MAILED FEBRUARY 26, 2003

In response to the official office action of February 26, 2003 related to the above-identified United States patent application, the Patent and Trademark Office is respectfully requested to reconsider the present application.

Submitted herewith is a Rule 131 Declaration swearing behind U.S. Patent No. 6,389,778 (the '778 patent) which was used to reject some of the pending claims in the present application.

The Rule 131 Declaration submitted herein is presented by Edward R. diGirolamo, one of the co-inventors of the claimed invention. The cited patent, that is the '778 patent, has a filing date of May 2, 2000. Applicants' application that is the subject of the present examination was filed January 28, 2002.

Mr. diGirolamo's declaration establishes that he conceived this invention prior to the filing date of the '778 patent. That is, Mr. diGirolamo conceived the invention as claimed or

described in the independent claims 1, 16 and 25 prior to May 2, 2000. Indeed, Mr.

diGirolamo's conception goes back to May 1998.

In addition, Mr. diGirolamo's testimony establishes that, from conception, he and the other co-inventors worked diligently to refine and reduce this invention to practice. It is clear from the Exhibits attached to Mr. diGirolamo's declaration, that the invention was built and tested in August 2001. Thereafter Mr. diGirolamo testifies that they continued to refine and test the wall structure up until the patent application was filed on January 28, 2002.

It is respectfully urged that the present Rule 131 Declaration swears behind the '778 patent.

Consequently, it is respectfully urged that the present application is in condition for allowance and allowance is respectfully requested.

If fees are required please charge them to Deposit Account No. 18-1167.

Respectfully submitted,

By:

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATE POSTAL SERVICE, ON THE DATE INDICATED BELOW, AS FIRST CLASS MAIL, POSTAGE PREPAID, IN AN ENVELOPE ADDRESSED TO: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date: _____

Kathy Stehle
7/25/03